9150 April 25, 1940

Dr. Alferd H. Illge
Medical Arts Building
Portland, Oregon

Dear Dr. Illge:

The Board of Censors of the Multnomah County Medical Society has been informed that you either have or will very shortly discontinue the type of practice which was the subject of the conciliatory meeting which the Board held with you some time ago.

In the light of that understanding, the Board of Censors is taking no further action with respect to the matters included within our discussion. However, if our understanding is not correct and you are still continuing in this type of practice, or if in the future you engage in this type of practice, the Board of Censors will be required to again consider this matter.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by .....
Chairman, Board of Censors

Plaintiff's Exhibit 1973

9151 LYLE B. KINGERY—ALFERD H. ILLGE—
JOYLE DAHL

PHYSICIANS AND SURGEONS

SUITE 349 MEDICAL ARTS BUILDING
PORTLAND, OREGON

June Third, 1940

Dr. Chas. E. Sears,
Chairman, Board of Censors,
Multnomah Co. Medical Society,
Portland, Oregon.

My dear Doctor Sears:

This is to inform you that I am not acting as consultant for any unapproved hospital association.

Very truly yours,

(Signed) ALFERD H. ILLGE
Alferd H. Illge

ahi/a

Plaintiff's Exhibit 1974

9152 *Case of A. H. Johnston*

Sears—Dr. Adams, as secretary, will read a letter addressed to Dr. Johnston

(Letter)

Sears—You understand, doctor, that this meeting is purely an informal affair and has nothing to do with legal procedure. Are you associated with the Prudential Hospital Association?

Johnston—I do some work for them.

Sears—You have no stock?

Johnston—No. I work on a fee basis. They pay the fees when the work is done.

Sears—Do you render bills to the patients?

Johnston—Yes

Sears—You are not a stockholder?

Johnston—No

Sears—Do you know that they solicit patients?

Johnston—Yes

Sears—Have you seen any of their advertising matter?

Johnston—Yes

Sears—Do you think that is a fair statement? (showing him pamphlet) It says here "no more doctor bills."

Johnston—No, I don't approve of that.

Sears—You have never sent a bill directly to a patient that you have recieved through them?

Johnston—Yes—for some work that is not covered in their contract. If I do that work I send them a bill

9153 for it.

Sears—As a matter of fact the patient does receive a bill.

Johnston—In some cases.

Sears—"Full medical care day and night." (Referring to advertising leaflet) That implies a good deal. But they make a large number of exceptions, not only in the work done, but the time it is done.

Johnston—I dont know very much about their management at all. I have read their contract, though, and I have read that (pointing to pamphlet), and I don't think the two correspond.

Sears—I think you appreciate that you are indirectly receiving the patients through solicitation.

Johnston—I guess maybe I am. I dont think I am the only one.

Sears—You are aware that this is in violation of the Code of Ethics of the American Medical Association?

Johnston—Yes, yes.

Sears—I dont know whether you have given it any thought or not, but approaching the matter through the standpoint of fairness in competition between doctors, say, for example, that if one of my patients were solicited by them and turned over to you, that represents unfair competition. I have no way of competing with that if I wish to remain ethical under the rules of the American Medical Association. You see if I wish to compete I have to be unethical.

Sears—If you were asked to choose between this sort
9154 of thing and your membership in the Society, which would you choose?

Johnston—The Multnomah Hospital Association solicits too dont they? I don't see why I should be singled out, I don't think its right.

Sears—Are you sure that they are employing solicitors?

Johnston—I don't care to state.

Sears—You think they are?

Johnston—I dont care to state.

Sears—I know, but you mentioned it.

Johnston—I don't want to be quoted.

Sears—You are not going to be quoted.

Benson—Do you know of the sending out of solicitors with such literature (holding up literature)

Johnston—I do

Benson—With the idea of distributing them from door to door?

Johnston—I dont know about the details. I have seen these circulars.

Benson—Do you know of any solicitors?

Johnston—I think they have some solicitors.

Benson—Do you know any of them personally?

Johnston—I have seen two or three of them up there in the Morgan Building.

Mount—Is your office in the Morgan Building?

Johnston—Yes

Mount—Is your office associated with the Pruden-
9155 tial Hospital Association?

Johnston—No

Mount—Do you do much work outside for them—
Johnston—Hospitals
Mount—Do you treat patients that are sent to you by the Association?
Johnston—Yes
Mount—They pay you on a fee basis?
Johnston—Yes—on a fee basis.
Mount—Do you do any surgery for them?
Johnston—No. My office is separate entirely from the association.
Sears—Is your name carried on any of their literature or their door?
Johnston—No, Dr. Rose and I are together.
Sears—But your name is not on their literature or their stationery?
Johnston—Not that I know of, doctor.
Sears—You see, Doctor, that this method of solicitation is in violation of the Code of Ethics of the American Medical Association. ..... like our State Society or our County Society do you think you should be doing this work for them?
Johnston—Thats a question I can't answer. Maybe I should and maybe I should'nt.
Sears—Are you willing to withdraw from the Pru-
9156 dential Hospital Association?
Johnston—I could not answer that question. I think anyone in my position would do the same. I don't believe I should be singled out. Whatever the majority is in favor of.
Sears—You dont think that an individual should develop his own practice.
Johnston—A man has to live.
Sears—Dont you think that I have to live?
Johnston—Certainly.
Sears—But if I dont joint the organization, you are in unfair competition with me, which I, living up to the Code of Ethics, am unable to combat. I am taking no particular stand. It is just a question of the facts in the matter.
Johnston—I think they would all do it and it would be a very fine thing.
Sears—It is a question of your doing .....
How many would have to live up to the Code before you would agree to live up to the Code with them?
Johnston—I could not answer that question.

Benson—Bearing in mind everything that has been said about the Code of Ethics would you choose an association of this kind with an unethical organization if it jeopardized your standing as a member of the Society?

9157 Johnston—I would not want to jeopardize my standing.

Benson—If it were really a choice?

Johnston—I could not state that.

Sears—You are very sure that your name does not appear any place on their door, literature, stationery, or any place?

Johnston—I dont know of any place where it is. It may be on a door, but not with the Prudential Hospital Association.

Sears—Is your name on a door with a list of other names, which is an entrance to one of their offices?

Johnston—I believe it is on a door of their waiting room.

Mount—Your office adjoins?

Johnston—I have a separate waiting room

Sears—You have a separate waiting room but your name appears on the door of their waiting room?

Johnston: Yes.

Plaintiff's Exhibit 1975

9158 February 7, 1938

Dr. L. S. Kent
Miner Building
Eugene, Oregon

Dear Dr. Kent:

At the meeting of the Executive Committee of the Council on February 5th, you submitted a letter received by Dr. E. L. Zimmerman from the Industrial Hospital Association. You requested advice as to a reply to this letter.

Legal counsel is of the opinion that the answer to this letter should be a simple, courteous acknowledgement. We enclose a suggested reply. The reply should be addressed to Drs. Chester C. Moore, R. J. Pilkington, and A. Van Dusen. We would suggest that the envelope be addressed to Dr. Moore and the reply sent to him.

In their letter, Drs. Moore, Pilkington, and Van Dusen state that "on December 8th we made definite proposals to both the State and Multnomah County Medical Societies

to cooperate with them by the elimination of all lay-ownership in hospital associations and other reformatory measures that would place contract practice on ethical basis". In order that the Council of the Lane County Medical Society may be informed concerning this phase of the matter, we are enclosing copies of Dr. Moore's letter to the Council of the Multnomah County Medical Society and of the two letters to Dr. Moore from that society.

This matter has never been presented to the Council of the Oregon State Medical Society although he has said that he sent a similar letter to Dr. Sweeney.

Very sincerely yours,

OREGON STATE MEDICAL SOCIETY

by.....

Executive Secretary

9159 Will T. Kirk, General Manager

Phone Day or Night Be. 3193

INDUSTRIAL HOSPITAL ASSOCIATION
Incorporated

Medical Arts Building
Tenth and Taylor Street
Portland, Oregon

COPY

February 2, 1938

Dr. E. L. Zimmerman
Eugene, Oregon

Dear Doctor:

In order to clarify the situation as regards the conduct of contract practice as it might concern various members of the medical profession who heretofore cared for employees under our protection, on December 8th we made definite proposals to both the State and Multnomah County Medical Societies to cooperate with them by the elimination of all lay ownership in hospital associations and other reformatory measures that would place contract practice on an ethical basis.

Up to this time there has been no constructive or advisory action taken for the guidance of those who propose to carry on this pre-payment medical service.

We wish you to be informed of the fact that our manager who at one time had stock in our organization has entirely severed his connection with the association as a stockholder. This organization is now owned and governed by members of the medical profession.

This action places the Industrial Hospital Association in the same classification, with the same status, as all the other associations similarly owned and governed by the medical profession throughout the state. This should give the physicians the same freedom to handle cases and accept fees coming under the medical contracts of our association as that of any other association so similarly owned and controlled.

Very truly yours,

INDUSTRIAL HOSPITAL ASS'N.

Charles C. Moore, M.D. (signed)
R. J. Pilkington, M.D. "
A. Van Dusen, M.D. "
Directors

CCM:E

Plaintiff's Exhibit 1976

9207 BEFORE THE BOARD OF CENSORS
OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY

Hearing In Re:

Dr. J. A. Applewhite.
Dr. O. J. Goffin.
Dr. Leland V. Belknap.
Dr. Samuel M. Wise.
Dr. Paul E. Spangler.

Portland, Oregon,
July 21, 1937.

CLOYD RAUCH
Court Reporter Notary Public
201 County Court House — Atwater 5387
Portland, Oregon

9208 INDEX

Case of: Page

Dr. J. A Applewhite 2
Dr. O. J. Goffin 17
Dr. Leland V. Belknap 32
Dr. Samuel M. Wise 46
Dr. Paul E. Spangler 58

9209 BEFORE THE BOARD OF CENSORS
OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY.

In Re:

Dr. J. A. Applewhite.
Dr. O. J. Goffin.
Dr. Leland V. Belknap.
Dr. Samuel M. Wise.
Dr. Paul E. Spangler.

Auditorium, Medical-Dental Building,
Portland, Oregon, July 21, 1937.
7:30 o'clock P. M.

Board of Censors:

Dr. Charles E. Sears, Chairman.
Dr. Frank R. Mount.
Dr. Roy A. Payne (absent).

Grievance Committee:

Dr. Richard B. Adams, Chairman.
Dr. Stanley Lamb.
Dr. W. F. Hollenbeck.

Mr. Clyde C. Foley, Executive Secretary.

—2—

9210 CASE OF DR. J. A. APPLEWHITE: PROCEEDINGS.

Chairman Sears: The meeting will come to order. The first case we have to deal with tonight is the case of Dr. J. A. Applewhite.

Dr. Adams: Mr. Foley, will you read the correspondence in connection with the case of Dr. J. A. Applewhite to date?

Mr. Foley: Under date of March 31, 1937 the Board of Censors wrote Dr. Applewhite as follows:

March 31, 1937.

Dr. J. A. Applewhite,
Mohawk Building,
Portland, Oregon.

Dear Dr. Applewhite:

The Multnomah County Medical Society has received information which appears to indicate that the contract practice engaged in by you in connection with the National Hospital Association is carried on in such a manner as to violate the Principles of Medical Ethics of the American Medical Association.

The Board of Censors will make a preliminary investigation of this matter at a meeting to be held in the auditorium of the Medical-Dental Building on the 5th day of April, 1937, at 7:30 o'clock P. M.

This letter is to give you notice of this meeting and an opportunity to be heard.

No formal charges have been filed against you. This meeting will be informal and conducted in accordance with the provisions of Chapter I, Section 5 of the by-laws which read as follows:

Conciliation. Kindly efforts in the interest of peace, conciliation or reformation, so far as possible or expedient, shall precede the filing of formal charges affecting the

—3—

9211 character or standing of a member, and it shall be the duty of the Board of Censors to promote this end by making a preliminary examination into the merits of the case, and the accused shall be given opportunity to be heard in his own defense, in all trials and proceedings of this nature.

You realize that the members of the Board of Censors are devoting their time to the duties imposed upon them

by the by-laws of the society. In order that their actions may be facilitated it is requested that if you cannot appear at the stated time that you communicate with the chairman of the Board at least twenty-four hours before the time of the meeting as scheduled above.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by CHARLES E. SEARS,
Chairman, Board of Censors.

Under date of April 3, 1937 Dr. J. A. Applewhite wrote a letter to Dr. Sears, Chairman of the Board of Censors, as follows:

April 3, 1937.

Dr. Charles E. Sears,
Chairman, Board of Censors,
Multnomah County Medical Society,
Portland, Oregon.

Dear Dr. Sears:-

Your notice requesting me to appear at a meeting of your Board on the evening of April 5th, at a preliminary investigation on matters pertaining to my practice, has been received.

You state that you have received information which indicates that the manner in which I am practicing medicine violates the Principles of Medical Ethics of the American

—4—

9212 Medical Association, and advise that I will have an opportunity to be heard at the aforestated meeting. However, your letter does not state the nature of the information you have received, or the source of your information.

In order that I may be apprized and therefore enabled to discuss the matter with your Censors, I request that you advise me by mail, in advance of meeting with your Board, as to the nature of your information and the source of same. As you probably will be unable to give me this information by the 5th, I am asking that my meeting with your Board be deferred to some future date.

Very truly yours,

J. A. Applewhite.

Under date of April 7, 1937 the Board of Censors addressed another letter to Dr. J. A. Applewhite as follows:

April 7, 1937.

Dr. J. A. Applewhite
Mohawk Building
Portland, Oregon.

Dear Dr. Applewhite:

The Board of Censors met Monday evening, April 5th, to make a preliminary examination into the merits of the information that the contract practice engaged in by you in connection with the National Hospital Association is carried on in such a manner as to violate the Principles of Medical Ethics. This information is in the hands of the Grievance Committee, not the Board of Censors. The meeting was called for the purpose of allowing this committee to present its information, and give you an opportunity to be heard.

As you were not present the Board of Censors did not consider your case.

The Board will meet on April 13, 1937, in the auditorium of the Medical-Dental Building, at 7:30 P. M. This letter is to give you notice of the meeting, and an opportunity to be apprised of the nature of the complaints and to be present. The Board of Censors cannot continue to
9213 hold "preliminary examinations" indefinitely. Your absence at this second scheduled meeting will impel the Board to consider that you do not care to be heard, and that you have no desire to conciliate.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by CHARLES E. SEARS,
Chairman, Board of Censors.

Under date of April 9, 1937 Dr. J. A. Applewhite addressed a letter to Dr. Charles E. Sears, Chairman of the Board of Censors, as follows:

April 9, 1937.

Dr. Charles E. Sears,
Chairman, Board of Censors,
Multnomah County Medical Society,
Portland, Oregon.

Dear Dr. Sears:-

I am in receipt of your letter of the 7th inst., informing me that "the Board of Censors met Monday evening, April 5th, to make a preliminary examination into the merits of the information that the contract practice engaged in by you in connection with the National Hospital Association is carried on in such a manner as to violate the Principles of Medical Ethics".

You state that the information is in the hands of the Grievance Committee and that this meeting was called for the purpose of giving me an opportunity to be heard, but that as I was not present the Board did not consider my case and will again meet on April 13th for that purpose and requests me to be present.

In answer may I call your attention to my letter to you under date of April 3d, which was in reply to your earlier letter on the same subject, dated March 31, 1937, and in which I called your attention to the fact that your letter of that date did not state the nature of the information

—6—

9214 against me or the source of that information, and in order that I might be apprized and therefore enabled to discuss the matter with the Board of Censors I requested you to advise me by mail, in advance of the meeting with your Board, the nature of your information and the source of same.

Your letter of April 7th, however, fails to furnish me with the information I requested and to which, I believe you must agree, I am entitled in view of the seriousness of the position in which I am placed by the alleged information. I therefore repeat that request and I ask that the information be sent to me at as early a date as possible in order that I, too, may have an opportunity of looking into the merits of the information against me which you advise has been received.

I shall await your reply.

Very truly yours,

J. A. Applewhite.

Under date of April 15, 1937 a letter was addressed to Dr. J. A. Applewhite by the secretary of the Multnomah County Medical Society as follows:

April 15, 1937.

Dr. J. A. Applewhite
Mohawk Building
Portland, Oregon

Dear Dr. Applewhite:

In accordance with the provisions of Section 6 of Chapter I of the by-laws of the society, we are enclosing a copy of certain charges of unethical conduct which have been filed against you. These charges are being referred to the Board of Censors.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by Howard P. Lewis,
Secretary.

9215 —7—

The letter was accompanied by a copy of the following charges:

April 14, 1937.

Dr. Howard P. Lewis, Secretary
Multnomah County Medical Society
Medical-Dental Building
Portland, Oregon

Dear Dr. Lewis:

The Grievance Committee has carefully examined the evidence in its possession regarding the contract practice of the National Hospital Association and that of Dr. J. A. Applewhite in connection with that association.

It appears from this evidence that:

1. Dr. J. A. Applewhite is associated in his practice with the National Hospital Association and renders medical services to persons contracting with that association for medical care.

2. The National Hospital Association and Dr. J. A. Applewhite, in connection with his practice with the

said association, are engaged in the contract practice of medicine in such manner as to violate Chapter III, Article VI, Section 2, of the Principles of Medical Ethics of the American Medical Association, in that–

(a) They employ solicitation, directly or indirectly;

(b) The manner of conducting their practice, and its tendency and effect, is such as to prevent free choice of physicians;

(c) The contract practice engaged in, and its practical results, are contrary to sound public policy.

3. That Dr. J. A. Applewhite has violated Chapter III, Article I, Section 4 of the said Principles of Medical Ethics, in that–

9216 —8—

Dr. J. A. Applewhite obtains patients indirectly through the results of advertisements, personal communications, agents, or solicitors.

4. That Dr. J. A. Applewhite has violated Chapter III, Article VI, Section 4 of the said Principles of Medical Ethics in that he disposes of his professional attainments or services in such a manner as to permit a direct profit from the fees, salary or compensation received to accrue to the National Hospital Association and its stockholders, one of whom is a layman.

It therefore becomes the duty of the duly appointed Grievance Committee to prefer the formal charges against Dr. J. A. Applewhite that he has violated the said Principles of Medical Ethics.

Very truly yours,

Richard B. Adams.
Stanley Lamb.
Frederick A. Kiehle.

Under date of July 14, 1937 the following letter was addressed to Dr. J. A. Applewhite by the Board of Censors:

July 14, 1937.

Dr. J. A. Applewhite
Mohawk Building
Portland, Oregon

Dear Dr. Applewhite:

The Board of Censors has had referred to it certain charges of unethical conduct against you received by the Secretary on April 15, 1937, a copy of which was sent to you on that date.

This letter is to notify you that the Board of Censors will consider these charges at a meeting to be held in the auditorium of the Medical-Dental Building on the 21st day of July, 1937 at 7:30 o'clock P.M.

Very truly yours,

—9—

9217 MULTNOMAH COUNTY MEDICAL SOCIETY

by Charles E. Sears
Chairman, Board of Censors

Chairman Sears: Dr. Applewhite not being present and not having communicated with the Board, the Board will ask for the reading of the charges against Dr. Applewhite.

(The charges were thereupon read as set forth herein, beginning on Page 7 of this transcript.)

Dr. Adams: First we present the following evidence to establish the fact that Dr. Applewhite is associated with the National Hospital Association in his practice. We submit his name on a list of doctors and technicians supplied to the Portland Woolen Mills by the National Hospital Association. On this list you will see the name of Dr. J. A. Applewhite listed as a physician of the National Hospital Association.

Secondly, his office at 412 Mohawk Building is in space leased by the National Hospital Association which pays the rent on the same, and I would like to read from Page 1777 in Polk's directory, 1937, which lists Dr. Joseph A. Applewhite as a physician occupying Suite 412. It lists the National Hospital Association as occupying Suite 400. It lists the National Hospital Association drug department as occupying Suite 427.

—10—

9218 In further support of this evidence I wish to read from affidavit of John J. Coughlin in which he states: "On November 18th, 1936 I talked to the building superintendent of the Mohawk Building, Portland. He informed me that the entire fourth floor of that building was leased by the National Hospital Association and paid for by that company." Polk's directory places Dr. Applewhite's offices on the fourth floor of the Mohawk Building. Dr. Applewhite's telephone number is Atwater 5291 and is the same as that of the National Hospital Association as ascertained from the Portland telephone directory, February, 1937, classified section, Pages 91 and 131.

The National Hospital Association is a corporation organized under the laws of the State of Oregon under the so-called hospital association statute; organized for profit. I wish to place in evidence a photostatic copy of the annual statement of the National Hospital Association submitted to the insurance commissioner of the State of Oregon.

(The statement was received as an exhibit and marked "Exhibit 1.")

Said statement is signed by C. C. Bechtold, secretary and general manager, and C. G. Sabin, treasurer of the National Hospital Association. The total amount of the company's stock owned by the directors, par value, is $20,000.

I would like to place in evidence a copy of the contract

—11—

9219 of the National Hospital Association entitled: "Full Coverage Agreement" in which it states on Page 1:

"Medical and surgical services, including operations, by physicians and surgeons and specialists designated by the medical contractor in their respective localities, and for the particular purposes of this agreement the medical contractor will designate physicians and surgeons and specialists in those cities and towns, convenient to the places of employment; it being understood that a doctor is not to be called to visit an employe where the employe is able to call at the doctor's offices. Any employe whose sickness or injury is of such a nature as to require the attention of specialists shall be entitled to care by specialists designated by the medical contractor in cities where specialists' services are available."

(The contract was received as an exhibit and marked "Exhibit 2.")

I would like to call the attention of the Board to the fact that accompanied by certain restrictions x-ray and laboratory services are included in this contract, as are physical therapy, medicines and medical and surgical supplies, hospital care, special nurses, ambulance, dental services, first aid materials and supplies, and emergency care. The medical contract from the National Hospital Association obviously does not permit a free choice of physicians.

The Insurance Agents' Directory, May 23, 1936, on Page 63 lists the names of Paul William Bechtold and of Robert Berven, and on Page 83 the name of Andrew James Mihalcik, all listed as miscellaneous agents of the National Hospital Association.

—12—

9220 In further evidence that free choice of physicians is not permitted by the National Hospital Association I would like to present the list of staff physicians, doctors, and technicians who care for National Hospital Association patients in the City of Portland, which list is limited to approximately 25 doctors out of a total of over five hundred practicing physicians in the community of Portland, Oregon.

(The list was received as an exhibit and marked "Exhibit 3.")

The contract of the National Hospital Association formerly referred to on Page 5 contains the following statement: "This agreement includes all employes of the employer engaged in the operations herein defined, including: Management, Office Personnel, Cooks and Kitchen Help", obviously not limiting the service solely to those in the low income group, "Management" also coming under the benefit of this contract.

The hospital rates paid by the National Hospital Association have been lower than the rates charged private patients. This statement is one of fairly common knowledge amongst the doctors. It is difficult for this committee to present to the Board actual evidence of this condition, inasmuch as the hospital managements have been very loath to place themselves in a difficult position, but I have

—13—

9221 personally seen numerous checks of the National Hospital Association in at least one hospital in the City of Portland which were for sums far below the amounts charged individual private patients. This practice in effect forces the patients of individual practitioners to subsidize the medical care of contract subscribers, obviously an unjust financial handicap contrary to sound public policy. There is a third party inserted between the physician and patient, namely, the National Hospital Association, which under its agreement is in a position to direct a prospective patient to certain designated physicians, and the management is in a position to influence the physician in respect to the quality of care he renders the patient.

Contracts are obviously procured through solicitors or agents. I have quoted the names of three licensed agents listed in the directory of the State Insurance Commissioner's list of agents for 1936.

I submit in evidence numerous full page and half page advertisements of the National Hospital Association inserted in the Oregon Voter during the course of the past few years.

(The issues of the Oregon Voter were received as an exhibit and marked "Exhibit 4.")

I submit in evidence the advertisement of the National Hospital Association in the Oregon Legionnaire as of

—14—

9222 November, 1936.

(The advertisement was received as an exhibit and marked "Exhibit 5.")

I submit in evidence the pamphlet entitled "Medical and Hospital Group Insurance" carrying the name of the National Hospital Association, and included therein are several letters and testimonials by various individuals extolling the care afforded under the National Hospital Association contract. The entire contents of the pamphlet is obviously for the purpose of influencing individuals to apply for the benefits of the National Hospital Association group insurance plan.

(The pamphlet was received as an exhibit and marked "Exhibit 6.")

In the annual statement of the National Hospital Association filed with the Insurance Commissioner December 31st, 1935 the item "Advertising Expense, $4031.40" appears amongst the list of disbursements.

In his association with the National Hospital Association Dr. Applewhite obviously disposes of his professional services in such a manner as to permit a direct profit from the fees received to accrue to the National Hospital Association and its stockholders, one of whom is a layman. In support of this statement I again present the annual statement of the National Hospital Association, or rather

—15—

9223 a photostatic copy thereof, in which under the heading of "Total dividends to stockholders declared since organization of company" an item of $37,030 cash is reported.

This completes the presentation of the evidence available to the Grievance Committee in support of the charges against Dr. Applewhite.

Chairman Sears: We have heard the evidence in the case of Dr. J. A. Applewhite. Dr. Applewhite has had ample notice on three occasions to appear before this committee, the first two being of conciliatory nature. Since Dr. Applewhite has had ample opportunity either to reply to his communications or to be present at these meetings and he has chosen to remain silent and absent the Board will proceed to go into executive session and make recommendations as to the action to be taken.

(The Board of Censors thereupon went into executive session.)

*****

Chairman Sears: We will now proceed with the regular meeting of the Board of Censors.

Dr. Mount: In view of the evidence submitted by the Grievance Committee I move the adoption of the following resolution: It is the sense and conclusion of the Board of Censors, and the Board recommends to the council of the Multnomah County Medical Society, that the charges

—16—

9224 filed by the Grievance Committee against Dr. J. A. Applewhite are sustained; that Dr. Applewhite be expelled, and that a copy of this motion and recommendation be forthwith transmitted to the council of the Multnomah County Medical Society.

Chairman Sears: I second the motion. Is there any further discussion? If not, all in favor of this motion will respond with the usual affirmative "aye". It is so moved, seconded, and voted in the affirmative.

* * * * *

9266 —58—

CASE OF DR. PAUL E. SPANGLER:

Chairman Sears: We are ready to proceed with the case of Dr. Paul E. Spangler.

Dr. Adams: Mr. Foley, will you read the communications pertinent to Dr. Spangler's case to date?

Mr. Foley: Under date of December 10, 1936 the following letter was addressed to Dr. Paul E. Spangler by the Board of Censors:

December 10, 1936

Dr. Paul E. Spangler
Wilcox Building
Portland, Oregon.

Dear Dr. Spangler:

The Multnomah County Medical Society has received information which appears to indicate that the contract practice engaged in by you in connection with the Pumphrey Company is conducted in a manner which is in violation of the Principles of Medical Ethics of the American Medical Association.

It is felt that an investigation of this matter should be made, for the good of all concerned.

At a meeting of the Board of Censors to be held in the Italian Room of the Campbell Court Hotel, S. W. 11th Avenue and Main Street, on the 15th day of December, 1936, at 7:00 o'clock P. M., the Board will make an investigation of this matter. This letter is to give you notice of the meeting and an opportunity to be heard.

No formal charges have been preferred. The investigation at this meeting will be informal and will be conducted in accordance with Section 7 of Chapter I of the By Laws of the Society which reads as follows:

Conciliation. Kindly efforts in the interest of

9267 —59—

peace, conciliation or reformation, so far as possible or expedient, shall precede the filing of formal charges affecting the character or standing of a mem-

ber, and it shall be the duty of the Board of Censors to promote this end by making a preliminary examination into the merits of the case, and the accused shall be given opportunity to be heard in his own defense, in all trials and proceedings of this nature.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by CHARLES E. SEARS
Chairman, Board of Censors

This letter notified Dr. Spangler of the fact that the Society had received information which appeared to indicate that the contract practice engaged in by him in connection with the Pumphrey Company was being conducted in a manner which was in violation of the Principles of Medical Ethics of the American Medical Association, and notified him that a preliminary investigation of this matter would be made by the Board on the 15th day of December, 1936 at seven o'clock. This preliminary meeting was held on the date indicated and the transcript of the proceedings of that meeting shows that Dr. Spangler indicated that he was considering discontinuing his association with the Pumphrey Company on or about July 1st, 1937.

Under date of March 19, 1937, the following letter was addressed to Dr. Spangler by the Board of Censors:

—60—

9268 March 19, 1937

Dr. Paul E. Spangler
Wilcox Building
Portland, Oregon

Dear Mr. Spangler:

At the meeting of the Board of Censors, held at the Campbell Court Hotel on December 15, 1936, the Board understood from your statements that you desired to discontinue your present association with contract practice and thereafter to conduct your practice in conformity to the Principles of Medical Ethics.

The Board of Censors wishes to have a definite statement from you concerning any action you may have taken or plans you may have regarding this matter. The Board

would like to have this information before its next meeting, which will be held shortly.

The Board appreciated your appearance at the informal meeting on December 15th and your attitude during this conference.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by CHARLES E. SEARS
Chairman, Board of Censors

Under date of March 31, 1937, the following letter was addressed to Dr. Spangler by the Board of Censors:

March 31, 1937

Dr. Paul E. Spangler
Wilcox Building
Portland, Oregon

Dear Dr. Spangler:

On March 19th I wrote you in regard to discontinuing your association with unethical contract practice. I have received no reply from you.

—61—

9270 At the meeting of the Board of Censors, held on December 15, 1936, you stated that you could probably discontinue this practice about July 1, 1937. Because of this statement no further action was taken in your case.

More than three months have elapsed since that meeting, and the members of the Board think you should have had time to formulate your plans.

Will you please notify the Board whether you are going to discontinue this type of practice about July 1st? If you cannot state the date definitely at present, please notify the Board on what definite date you will have formulated your plans.

The Board is meeting Monday night, April 5th, and would appreciate a reply from you at that time.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by CHARLES E. SEARS
Chairman, Board of Censors

Under date of April 3, 1937, Dr. Spangler addressed the following letter to Dr. Sears as Chairman of the Board of Censors:

April 3, 1937

Dr. Charles E. Sears
Chairman, Board of Censors
Multnomah County Medical Society
Portland, Oregon

Dear Dr. Sears:

The receipt of your two disturbing epistles is acknowledged. I regret that I am unable to report that the proposed change I mentioned has taken place. At that time plans had been made which would allow me to give up the contract work I am doing and still maintain my economical independence. Through no fault of mine those plans fell through. Therefore I am not in an economic position at the present time to give up the work I am doing. If any one

—62—

9269 can show me how I can meet my obligations without the aid of my Pumphrey income I should be highly pleased. Under these circumstances I expect the board had better take any action they feel required to.

I wish to state however that I cannot concur with your opinion that I am engaged in unethical practice. Further I feel that any action you may feel moved to take against me would be unfairly discriminatory unless similar action is taken against the members of other groups such as the Multnomah Health Assn and the Coffey Clinic who I know are engaged in practices such as you object to on my part. Also you must consider the large number of men in the Society who have and are doing work for all of the associations as consultants in one capacity or another. I don't think they consider themselves unethical nor will you find them willing to give up this phase of their work until some better solution is offered to this problem.

I regret that there is this difference of opinion but I am unable to decide otherwise at this time.

Sincerely yours,

(Signed) PAUL E. SPANGLER

In this letter Dr. Spangler calls attention to the fact that he had been unable to make arrangements to discon-

tinue his association with the Pumphrey Company in accordance with his expressed intention at the preliminary hearing of July 15, 1936.

Under date of April 7, 1937, the following letter was addressed to Dr. Spangler by the Secretary of the Multnomah County Medical Society:

April 7, 1937

Dr. Paul E. Spangler
Wilcox Building
Portland, Oregon

—63—

9271 Dear Dr. Spangler:

In accordance with the provision of Section 6 of Chapter I of the by-laws of the society, we are enclosing a copy of certain charges of unethical conduct which have been filed against you. These charges are being referred to the Board of Censors.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by HOWARD P. LEWIS
Secretary

With this letter was enclosed a copy of the following charges filed against him by the Grievance Committee:

April 7, 1937

Dr. Howard P. Lewis, Secretary
Multnomah County Medical Society
Medical-Dental Building
Portland, Oregon

Dear. Dr. Lewis:

We have carefully examined the evidence presented to us regarding the contract practice of the Pumphrey Company and that of Dr. Paul E. Spangler in connection with that Company, including the matters brought up in the preliminary examination of Dr. Spangler.

It appears from this evidence that this contract practice is in violation of the Principles of Medical Ethics of the American Medical Association.

It therefore becomes our duty as the duly appointed Grievance Committee of our society to prefer the following charges against Dr. Spangler:

1. That he is associated with the Pumphrey Company of Portland, Oregon.

2. That the Pumphrey Company and Dr. Paul E. Spangler are engaged in the contract practice of medicine in such a manner as to violate Chapter III, Article VI,

9272 Section 2, of the Principles of Medical Ethics of the American Medical Association, in that

(a) They employ solicitation, directly or indirectly;

(b) The manner of conducting their practice, and its tendency and effect, is such as to prevent the free choice of physician;

(c) The said contract practice, and its practical results, are contrary to sound public policy.

3. That The Pumphrey Company and Dr. Paul E. Spangler have violated Chapter III, Article I, Section 4, of the said Principles of Medical Ethics, in that

(a) They procure patients by indirection through solicitors or agents.

4. That Dr. Paul E. Spangler has violated Chapter III, Article VI, Section 4 of the said Principles of Medical Ethics in that he disposes of his professional attainments or services in such a manner as to permit a direct profit from the fees, salary or compensation received to accrue to The Pumphrey Company, and its lay owners.

Very truly yours,

Grievance Committee

RICHARD B. ADAMS.

STANLEY LAMB.

FREDERICK A. KIEHLE.

Under date of July 14, 1937, the following letter was sent to Dr. Spangler by the Board of Censors:

July 14, 1937

Dr. Paul E. Spangler
Wilcox Building
Portland, Oregon

—65—

9273 Dear Dr. Spangler:

The Board of Censors has had referred to it certain charges of unethical conduct against you received by the Secretary on April 8, 1937, a copy of which was sent to you on that date.

This letter is to notify you that the Board of Censors will consider these charges at a meeting to be held in the auditorium of the Medical-Dental Building on the 21st day of July, 1937 at 8:00 o'clock P. M.

Very truly yours,

MULTNOMAH COUNTY MEDICAL SOCIETY

by CHARLES E. SEARS
Chairman, Board of Censors

Chairman Sears: Mr. Foley, you have not heard further from Dr. Spangler?

Mr. Foley: The Board has had no further communication from Dr. Spangler since his letter of April 3, 1937 just referred to.

Chairman Sears: As chairman of the Board of Censors I have also received no written communication from Dr. Spangler. It is obvious that Dr. Spangler's attitude has undergone some change because he responded to the first communication and appeared at a conciliatory meeting with the Board of Censors, at which meeting Dr. Spangler intimated that he would discontinue his work with the Pumphrey Company by the 1st of July, 1937, but that this was somewhat contingent upon some further considerations. Not having heard from Dr. Spangler at the time agreed

—66—

9274 upon, which was about July 1st, 1937, and since Dr. Spangler has chosen not to respond to the last communication of July 14, 1937, the Board will have to assume that Dr. Spangler is not interested in either meeting with the Board or communicating with it further. We will therefore proceed to hear the charges and evidence of the Grievance Committee. Dr. Adams, have you anything to present?

Dr. Adams: In a letter to Dr. Howard P. Lewis Secretary of the Multnomah County Medical Society, dated April 7, 1937 and signed by the following members of the Grievance Committee, Richard B. Adams, Stanley Lamb, and Frederick A. Kiehle, the following material appears.

(The letter of April 7, 1937, heretofore set out in this transcript, containing the charges against Dr. Spangler, was thereupon read by Dr. Adams.)

Dr. Adams: The Grievance Committee is in possession of the following evidence in support of these charges:

First, in support of the charge that Dr. Spangler is associated with the Pumphrey Company we present the following: According to Polk's Portland city directory, 1937, Page 1794, it appears that he occupies the same suite of offices as the company at 506 Southwest Sixth Avenue in the Wilcox Building. Suite 1209 contains the following in the Polk directory: The Pumphrey Company hospital as-

—67—

9275 sociation, Frank E. Boyden, physician, Paul E. Spangler, physician.

Second, his office telephone number is the same as that of the Pumphrey Company in the Portland telephone directory, February, 1937, namely, that of Atwater 4377.

Third, at the preliminary meeting of December 15, 1936, in the Campbell Court Hotel Dr. Spangler freely admitted his association with the Pumphrey Company. The Pumphrey Company is a corporation organized for profit under the hospital association statutes of the State of Oregon. In support of this statement I would like to present a letter from the Insurance Commissioner, Hugh H. Earle, dated October 29, 1936, in which we find listed the names and addresses of officers and directors of the Pumphrey Company, namely, C. B. Pumphrey, president, Frank H. Hilton, vice-president, Mabel G. Pumphrey, secretary. Directors: C. B. Pumphrey, Mabel G. Pumphrey, Frank H. Hilton, none of whom are known to be physicians.

(The document was received as an exhibit and marked "Exhibit 1.")

In substantiation of the statement that the Pumphrey Company is engaged in contract practice we submit a certified copy of the Pumphrey contract signed by the Insurance Commissioner of the State of Oregon, in which the Pumphrey Company, a corporation, agrees to provide medical

and surgical and hospital services, including specialists,

—68—

9276 dental services, medicines, medical and surgical appliances, X-ray and clinical laboratory diagnosis, and physiotherapy as needed for the employes of the contractor. The services to be rendered by the company are then more fully described.

Fourth, the Pumphrey Company or its agents solicit medical care subscribers. This fact is established by the assertions of Drs. Boyden and Spangler at the preliminary hearing December 15, 1936 held in the Campbell Court Hotel, in which said doctors declared that Mr. Pumphrey himself arranged for the medical contracts and that although it was their understanding at one time a solicitor had been employed by the Pumphrey Company, in recent years this practice was discontinued and Mr. Pumphrey himself sought all the new business.

We submit the following evidence that the contracts of the Pumphrey Company do not permit a free choice of physicians. I read from Provision I of the contract submitted by the Insurance Commissioner and previously referred to:

I.

OFFICE TREATMENT

The Contractor shall have the privilege of sending any of the said employees to the offices of the doctors of the Company for consultation or treatment during regular office hours and of calling on said doctors at any time in cases of emergency. For this purpose, the Company promises to maintain at designated places duly licensed physicians and surgeons and specialists, it being provided that in the event the particular doctor designated by the Company is not available when called, the Contractor may employ any other competent first aid services, at the expense of the Company, it being understood, however,

—69—

9277 that such first aid services shall not extend to operations, amputations and the setting of fractures. Cases requiring these services shall be directed to the hospitals.

We wish to point out that this contract is contrary to sound public policy in that there is no indication that contract services are limited to low income groups. Exec-

utives have been reported to be covered. Drs. Boyden and Spangler stated in the preliminary hearing from time to time they had rendered services to executives.

Second, a third party is inserted between the physician and the patient, namely, the Pumphrey Company, which is in a position to limit or alter the character of medical care rendered its subscribers by the staff physicians. The method of obtaining subscribers or patients is contrary to sound public policy in that solicitation is employed.

It would appear that Dr. Spangler disposes of his professional services in such a manner as to permit a direct profit from the fee, salary, or compensation received to accrue to the Pumphrey Company and its lay owners. The Pumphrey Company is a corporation organized for profit whose stockholders are Mr. C. B. Pumphrey, Mabel G. Pumphrey, and Frank H. Hilton, all laymen. These lay stockholders are entitled to any profits or dividends.

This concludes the evidence in the possession of the

—70—

9278 Grievance Committee in the case of Dr. Paul E. Spangler.

Chairman Sears: You have heard the charges and the evidence. We will go into executive session and discuss these charges and evidence.

(The Board of Censors thereupon went into executive session.)

*****

Chairman Sears: We will now resume regular session. You have heard the charges and the evidence in the case of Dr. Paul E. Spangler. Have you any discussion or comments?

Dr. Mount: I move the adoption of the following resolution: It is the sense and conclusion of the Board of Censors, and the Board recommends to the council of the Multnomah County Medical Society, that the charges filed by the Grievance Committee against Dr. Paul E. Spangler are sustained; that Dr. Spangler be expelled, and that a copy of this motion and recommendation be forthwith transmitted to the council of the Multnomah County Medical Society.

Chairman Sears: I second this motion. Is there any further discussion? All in favor of this motion respond by the usual affirmative. It is so moved, seconded, and carried. The meeting will stand adjourned.

(Thereupon at 10:05 o'clock P. M., July 21, 1937 the meeting of the Board of Censors was adjourned.)

(The rest of the exhibit consists of proceedings with respect to Drs. O. J. Goffin, Leland V. Belknap, and Dr. Samuel M. Wise very similar to that contained in the first 16 numbered pages of this exhibit.)

Plaintiff's Exhibit 1977

9160 BEFORE THE COUNCIL
OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY

IN RE:

Dr. Paul E. Spangler.
Dr. J. A. Applewhite.
Dr. O. J. Goffin.
Dr. Leland V. Belknap.
Dr. Samuel H. Wise.

Portland, Oregon,
July 30, 1937.

CLOYD RAUCH
COURT REPORTER NOTARY PUBLIC
201 COUNTY COURT HOUSE—ATWATER 5387
PORTLAND, OREGON

9161 BEFORE THE COUNCIL
OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY

IN RE:

Dr. Paul E. Spangler.
Dr. J. A. Applewhite.
Dr. O. J. Goffin.
Dr. Leland V. Belknap.
Dr. Samuel H. Wise.

Auditorium, Medical-Dental Building,
Portland, Oregon, July 30, 1937.
7:30 o'clock P. M.

Dr. Robert L. Benson, President.
Dr. Karl H. Martzloff, Vice-President.
Dr. Howard P. Lewis, Secretary.
Dr. A. G. Bettman, Treasurer.
Dr. Banner H. Brooke, Retiring President.

Councilors:

Dr. Guy L. Boyden.
Dr. B. O. Woods.
x Dr. Merl Margason.
Dr. Frank R. Mount.
x Dr. Stanley Lamb.
Dr. Louis P. Gambee.
Dr. J. E. Buckley.
Dr. John C. Adams.
x Dr. Roy A. Payne.
Dr. Charles E. Sears.
x Dr. E. W. Rockey.
Dr. Leo Lucas.

("x" indicates absent.)

Dr. Richard B. Adams, Chairman Grievance Committee.
Mr. Clyde C. Foley, Executive Secretary.
Mr. John J. Coughlin, Legal Adviser.

9163 PROCEEDINGS:

Chairman Benson: Gentlemen, this meeting was called for a special purpose, for hearing certain members who have been summoned before this council. Dr. Spangler, I understand, is to be heard first, and the Chair will ask all except Dr. Spangler and the members of this body to retire while he is being heard.

Dr. Martzloff: Mr. Chairman, may I take this occasion to introduce my very good friend, Mr. Malcolm Clark, who is the legal representative of some of the individuals who are to appear tonight. He will step out while Dr. Spangler's case is under consideration.

(Mr. Clark thereupon withdrew.)

Chairman Benson: Is there anyone else in the chambers who is not representing Dr. Spangler nor is a member of

this body? Dr. Spangler, do you wish to be heard now?

Dr. Spangler: Well, I don't know as I have anything to be heard upon. I came down here tonight in response to this letter which was sent out. I suppose that the gentlemen may perhaps care to ask me some questions, which I would be glad to answer. I would like to know exactly the charges that have been brought against me. The only ones I have, of course, are the ones sent me on April 7th.

Chairman Benson: The executive secretary has
9162 the information. He will be in in just a moment.

I think Mr. Foley will have them. He just stepped out to get something.

Dr. Richard B. Adams: I believe that Dr. Spangler should have received a letter of formal charges. Didn't you receive one?

Dr. Spangler: I received a letter on April 7th, but there has been action taken since then. The last letter I had was on April 7th, other than the one telling me to appear at this meeting.

Dr. Richard B. Adams: Is that a copy of the letter?

Dr. Spangler: Yes.

Dr. Richard B. Adams: I think that covers all the charges that were considered.

Dr. Spangler: What I would like to know is exactly what charges are before this committee for action. I think I should know that.

Dr. Richard B. Adams: Well, you didn't attend the so called formal hearing or the meeting of the Board of Censors to consider the formal charges, but these same charges were presented before the Board of Censors and they considered the evidence available at that hearing and passed a resolution or recommendation to the council, which is the constitutional requirement, and Mr. Foley is probably getting that resolution. That is their conclusion following the hearing of what evidence was presented to them at the

hearing that was called. That hearing was about
9164 a week or ten days ago. Mr. Foley should have that.

Mr. Foley, have you the resolution or recommendation of the Board of Censors in reference to Dr. Spangler's case?

Mr. Foley: Yes, sir.

Dr. Martzloff: Mr. Chairman, might I suggest that you explain to Dr. Spangler the purpose of this meeting? I think Dr. Spangler doesn't quite understand the purpose of this meeting as compared with the formal meeting held

by the Board of Censors prior to this, at which the Board of Censors took its final action.

Dr. Spangler: I think I understand the purpose of the meeting; it is to take action on the recommendation of the Board of Censors on certain charges filed by the Board of Censors.

Chairman Benson: Dr. Spangler, if you will pardon me, I will make my apology for not having made that explanation. There were people in the room who were not entitled to hear what the business was. That is why I didn't state what the business was. That is exactly what this meeting was called for, to consider the charges which were made against you, and the recommendation of the Board of Censors. I didn't want to make that statement before outsiders.

Dr. Spangler: Well, I would like to know just what recommendations have been made to this organization in regard to me before I can discuss the matter intelli-
9165 gently.

Mr. Foley: This is the report of the Board on this particular matter:

July 22, 1937

The Council
Multnomah County Medical Society
Portland, Oregon

Gentlemen:

The Board of Censors of the Multnomah County Medical Society held a meeting on July 21, 1937, to consider certain charges filed against Dr. Paul E. Spangler.

A copy of the charges against Dr. Spangler is enclosed herewith.

Previously the Board had held a meeting for the preliminary investigation and examination of the contract practice of Dr. Spangler at which he was present.

Dr. Spangler did not appear at the meeting of July 21, 1937, but under date of April 3, 1937, had sent a written statement to the Board. This statement is set out in full in the transcript.

After considering the evidence, it became the duty of the Board of Censors, under the Constitution and By-laws of the Society, to make a recommendation to the Council in regard to the charges.

The Board of Censors accordingly duly considered the charges and the evidence presented to it, and passed the following resolution:

"It is the sense and conclusion of the Board of Censors and the Board recommends to the Council of the Multnomah County Medical Society that the charges filed by the Grievance Committee against Dr. Spangler are sustained; that Dr. Spangler be expelled, and that a copy of this motion and recommendation be forthwith transmitted to the Council of the Multnomah County Medical Society".

The Board is now transmitting the resolution to the Council as the Board's recommendation for the consideration of the Council.

MULTNOMAH COUNTY MEDICAL SOCIETY

By (Signed) CHARLES E. SEARS
Chairman, Board of Censors

9166 Dr. Spangler: The charges then are the ones that were sent in this letter of April 7, 1937; is that correct?

Mr. Foley: That is correct.

Chairman Benson: Yes. You are free to make any statement you choose.

Dr. Spangler: Well, the charges are that I am associated with the Pumphrey Company, which I don't deny. That is No. 1.

No. 2: "That the Pumphrey Company and Dr. Paul E. Spangler are engaged in the contract practice of medicine in such a manner as to violate Chapter III, Article VI, Section 2, of the Principles of Medical Ethics of the American Medical Association, in that they employ solicitation, directly or indirectly." Well, I deny that. I don't employ solicitation. The Pumphrey Company employs no paid solicitors. Mr. Pumphrey has had a certain amount of contract business, which is really insurance for the laboring man employed in certain industries around here in Portland. It is health insurance and accident insurance, and all of us here carry health insurance and accident insurance. As far as I can see you and I pay a high premium for our health and accident insurance. We have a fairly liberal contract, and these men cannot afford a contract such as we carry. By the scheme that we are operating under we are able to offer these men adequate protection for health and accident, at a premium rate which they can afford to pay, by getting large groups. If it were an individual matter it would be impossible to insure these men at the figure which they are insured at at the present time.

Mr. Pumphrey, as I say, has had a certain amount of this business, and he has tried to keep it. He has had it for a great number of years. Since I have been with the company there has been no new business secured through solicitation. Undoubtedly the business in the first place was gotten through solicitation, I mean that business just doesn't come to a person. As I say, since I have been associated with the Pumphrey Company there has been no new business acquired through solicitation. Mr. Pumphrey says himself he does not solicit business. He tries to keep the business he has had, and in certain instances businesses have come to him and asked him to explain to them his plan. Well, if a company wants to know what you have to offer and you are in business naturally you are going to tell them what you have to offer, so I believe there is a good deal of room for argument on this solicitation business.

"(b) The manner of conducting their practice, and its tendency and effect, is such as to prevent the free choice of physician." That is perfectly true, but that is one of the limitations which must be placed on this sort of insurance for these men in order to be able to sell it to them at all.

Now to go back to our own status, we all have
9167 accident and health insurance, or most of us do, and you are supposed to have free choice of physicians. in reality a good many of us know people who have these other contracts are told where to go, and furthermore, with a higher premium they can afford to be a little more liberal in the contract they have to offer. That is all I have to say on that point.

"(c) The said contract practice, and its practical results, are contrary to sound public policy." Well, that is a debatable point. All that I can say is that I know that the Pumphrey Company gives good medical service to the men who are covered under those contracts, and I know that it is just as good as I am capable of giving and it is just as good as far as the essential things that are required are concerned as I am able to give my private practice. Whether that is contrary to sound public policy I don't know.

The third point is that I have violated certain sections of the Principles of Medical Ethics, in that "they procure patients by indirection through solicitors or agents." We have no solicitors or agents. Mr. Pumphrey is the only one that goes out and secures business, and that is only

when an inquiry has been made or a request made to him for business or when he is trying to save his business that someone is trying to take away from him.

The last point is: "That Dr. Paul E. Spangler has violated Chapter III, Article VI, Section 4 of the said
9168 Principles of Medical Ethics in that he disposes of his professional attainments or services in such a manner as to permit a direct profit from the fees, salary or compensation received to accrue to the Pumphrey Company and its lay owners." I feel that my professional services are adequately compensated. A man who is running an insurance business has a certain risk that he has to take, in other words he has to guarantee to the people he insures that he will see that they are provided with hospital care, medical care, and supply such medicines, and so forth, that are necessary, and a man who is insuring or taking in insurance risks is entitled to a fair compensation for that. I take the stand that the compensation that Mr. Pumphrey gets is just compensation for the risk that he takes in insuring this class of people, who are entitled to buy insurance just as much as you or I, and if they can't afford a higher rate they are entitled to have insurance at a lower rate with a somewhat restricted contract, and that is my attitude on this whole question and I don't feel that in doing that sort of work I am doing anything wrong. If I am wrong, Gentlemen, there is a large percentage of the members of this society that are equally wrong, because they are furnishing the same sort of services, perhaps taken under a little bit different name or called a little differently, but actually they are doing the same thing as I am doing.

I know a lot of you men here intimately and I don't
9169 want to appeal to our friendship at all, but I do say this: You all know me well enough to know that I try to play the game square. If I thought I was doing something that was wrong I wouldn't be in it, but for the reasons that I have tried to outline here I don't feel that I am wrong, and that is all I have to say, and whatever action the council cares to take is up to them.

If there are any questions that anybody would like to ask me I would be glad to answer them.

Chairman Benson: Are there any questions? I think it would be a good thing to settle any matters of doubt by asking questions of Dr. Spangler.

Dr. Lucas: Doctor, how many doctors are on the panel?

Dr. Spangler: Well, we have no panel. I am the only one now. We have used various men at various times as

needed, and as far as an actual panel is concerned I am the only one here in town. The other men out of town are more or less on a fee basis, but I am the only one in the office that is on the panel. As I say, we use consultants when it is necessary.

Dr. Martzloff: Paul, is Dr. Frank Boyden still with the Pumphrey Company?

Dr. Spangler: No, he is not.

Chairman Benson: Are there any other questions?

Dr. John C. Adams: I understand that Dr. Boyden is on the way down here, and I suggest that this matter be held for a few minutes until he arrives. We can read
9170 the transcript of what Dr. Spangler said to him.

Chairman Benson: Yes. Dr. Spangler, you understand that we are lacking one member of a full quorum that is qualified to deal with a matter of this kind and that in order to do it, when we get our full quorum, in a few minutes, we hope, we will have to read this transcript to him to bring it up to the moment and then we can proceed. You may feel free to remain.

Dr. Spangler: Well, I don't think it is necessary that I remain. I think I have said all I have to say and the gentlemen have asked any questions that they apparently have in mind.

Dr. Brooke: I was just noticing one thing here in the hearing of December 15th, a quotation. I was not present at the meeting.

> "Dr. Spangler: Well, if the Board of Censors would be willing to give us until the first of July, if we would agree to get out on or before the first of July, I would like to settle it that way, if it could be settled without a suspension.
>
> Dr. Mount: That is, let the matter rest in abeyance until the first of July?
>
> Dr. Spangler: Yes.
>
> Dr. Sears: Would you be willing to give us a letter, each one of you, stating that you will sever your connection with the organization at a certain time in July?
>
> 9171 Dr. Boyden: I will.
>
> Dr. Spangler: I will.
>
> Dr. Sears: Very well, then the meeting is adjourned."

Dr. Spangler: Yes, I can explain that. That is explained in a letter that I wrote to Dr. Sears in answer to his re-

quest. Dr. Boyden and I were both a little bit confused about that, because we didn't realize that we were expected to write a letter on this. Dr. Sears wrote me and asked what I intended to do. At the time of that hearing I had definite plans under foot which I thought were going through; as a matter of fact we had looked at office space and made arrangements to engage it, and then those plans fell through, through no fault of mine, and when those plans fell through it became economically impossible for me to sever my connection with the Pumphrey Company at this time, which I explained to Dr. Sears in a letter.

Chairman Benson: Are there any other remarks or questions?

Dr. Martzloff: Is the letter that Dr. Spangler wrote to Dr. Sears a matter of record in the transcript of his hearing?

Chairman Benson: Mr. Foley, could you answer that?

Mr. Foley: I have the letter here. Would you like to hear it?

Chairman Benson: Yes.

9172 (The letter from Dr. Spangler dated April 3, 1937, was thereupon read as follows:)

April 3, 1937

Dr. Charles E. Sears
Chairman, Board of Censors
Multnomah County Medical Society
Portland, Oregon

Dear Dr. Sears:

The receipt of your two disturbing epistles is acknowledged. I regret that I am unable to report that the proposed change I mentioned has taken place. At that time plans had been made which would allow me to give up the contract work I am doing and still maintain my economic independence. Through no fault of mine those plans fell through. Therefore I am not in an economic position at the present time to give up the work I am doing. If anyone can show me how I can meet my obligations without the aid of my Pumphrey income I should be highly pleased. Under these circumstances I expect the board had better take any action they feel required to.

I wish to state however that I cannot concur with your opinion that I am engaged in unethical practice. Further I feel that any action you may feel moved to take against me would be unfairly discriminatory unless similar action

is taken against the members of other groups such as the Multnomah Health Assn and the Coffey Clinic who I know are engaged in practices such as you object to on my part. Also you must consider the large number of men in the Society who have and are doing work for all of the associations as consultants in one capacity or another. I don't think they consider themselves unethical nor will you find them willing to give up this phase of their work untill some better solution is offered to this problem.

I regret that there is this difference of opinion but I am unable to decide otherwise at this time.

Sincerely yours,

(Signed) PAUL E. SPANGLER

9173 Chairman Benson: Dr. Spangler, you are free to comment on any phase of the proceedings. Are there other questions?

Dr. John C. Adams: Doctor, at one time the Pumphrey Company had a solicitor, didn't they?

Dr. Spangler: Well, when I first came there they had a fellow that was in college with Mr. Pumphrey and he was on the rocks and he gave him a job and he was supposed to go out and get business, but in about a year and three months' time he got no business and drew a salary and he lost his job, and then again for a period of about three months—oh, this was about a year or a year and a half ago—we had another fellow who was going to get us some business, and he also ended up equally successfully, and he was dropped. Those are the only two, other than Mr. Pumphrey, that have tried to get business for the company.

Dr. John C. Adams: Were those men paid on a commission basis?

Dr. Spangler: No, they were paid a salary.

Dr. John C. Adams: Does the Pumphrey Company advertise in the trade journals?

Dr. Spangler: Not a bit, never has.

Dr. Gambee: You have no literature with your name appearing on it?

Dr. Spangler: The only literature is my name on the little card when they have to come for services, and
9174 it has only my name and telephone number.

Dr. Mount: May I ask Dr. Spangler what territory the Pumphrey Company covers by its insurance?

Dr. Spangler: Well, all our contracts are in Oregon. There are a few in Washington along the Columbia River —I mean we have a few men that we cover there with the Portland Stevedoring only. Then in Portland we have the M. & M. Woodworking, Holman Fuel Company, and then we have Clark & Wilson at Willark, the Polk Operating Company down at Grand Ronde, and that is the size of our contracts now.

Dr. Mount: Are you a part of the firm?

Dr. Spangler: No, I am not a part of the firm.

Dr. Mount: You are an employee of the insurance organization?

Dr. Spangler: That is right.

Dr. Mount: Do you, or does the company, propose to extend its activities to other states?

Dr. Spangler: There has been some thought of that, yes.

Dr. Mount: Using you as the medical representative?

Dr. Spangler: That is right.

Dr. Brooke: What other states?

Dr. Spangler: California.

Dr. Brooke: It is incorporated down there?

Dr. Spangler: No, sir.

Dr. Brooke: Have they made application or any-
9175 thing?

Dr. Spangler: No.

Dr. Martzloff: Have you been making inquiries in California and seeking potential clients down there, Paul?

Dr. Spangler: Yes, the Pumphrey Company started to operate down there, and then it was found that the only way to incorporate was if a medical man was in charge. I am the head of the company—supposed to be the head of the company down there.

Dr. Martzloff: What is the proposed name of the company?

Dr. Spangler: Under my name.

Dr. Martzloff: Paul Spangler?

Dr. Spangler: That is right—and associates. There are two other medical men down there that are associated.

Dr. Brooke: Was that advertised down there at all?

Dr. Spangler: I don't think it has been advertised. I think there has been business solicited down there.

Dr. Brooke: Under the name of the Paul Spangler Medical Company?

Dr. Spangler: And associates.

Dr. John C. Adams: Do these contracts which you now

have cover everyone in the plant that wants to avail themselves of the privilege?

Dr. Spangler: Yes.

Dr. John C. Adams: That is men and executives and everything?

9176 Dr. Spangler: Yes.

Dr. Martzloff: Paul, while you are selling insurance does your insurance provide an indemnity to the individual that is injured, or does it merely provide hospital and medical service?

Dr. Spangler: The total fee that they pay does not provide a cash indemnity for illness. But through the State Accident Commission, with whom we have certain contracts, or private insurance companies, there is a cash indemnity provided in case of accident, but that is through reallotting some of the amounts the men pay to the insurance companies to cover that.

Dr. Martzloff: In other words, what your company is selling is merely hospital and medical care?

Dr. Spangler: That is true. There is no indemnity for illness, but there is an indemnity provided for accident.

Dr. Martzloff: But your company does not pay that indemnity, does it?

Dr. Spangler: No, it is brokered either by a contract with the state or with these insurance companies like Lloyd's of England.

Dr. Brooke: Are you aware of the fact or is it true that there is at present an organization existing in California actively soliciting hospital and health services from employee groups, offering contracts with employers, doctors, and others under the name of Dr. Paul Spangler and Associates?

Dr. Spangler: Yes, I am aware of that.

9177 (At this point Dr. Guy L. Boyden entered the hearing room.)

Chairman Benson: Dr. Boyden, in order that you may pick up the thread of the proceeding as it goes on from now we are going to read the transcript to you of what has already occurred. Are there further questions?

Dr. Spangler: I wanted to say that there is no employed solicitor in California. Mr. Pumphrey is the only one that has done any soliciting down there.

Chairman Benson: Any further questions?

Dr. Bettman: Do I understand that the setup in Cali-

fornia is different from that in Oregon in order to comply with the California law? Is that true?

Dr. Spangler: That is true. However, Gentlemen, I am not being tried on what is going on in California, am I?

Dr. Bettman: I don't know.

Dr. John C. Adams: You probably are as far as your membership in this society goes. Wouldn't that be true? It doesn't matter whether this is carried on in the State of Washington or the State of California. We have included such matters in the discussion.

Chairman Benson: I understand the Chair does not rule on such matters; that is why I am listening and not ruling. All of this is a matter for discussion. Are there further questions?

9178 Dr. Mount: Mr. Chairman, I move the council go into executive session and Dr. Spangler be excused and that we discuss the question.

Chairman Benson: Dr. Mount, may I make a suggestion there that Dr. Boyden if he knew the contents of the transcript might perhaps wish to ask certain questions. If Dr. Spangler wishes to remain while this transcript is read he is welcome to do so or not, just as he likes.

Dr. Gambee: I think he should remain.

Dr. Lucas: Dr. Boyden might want to ask some questions.

Chairman Benson: Suppose we have that transcript read.

(The record of proceedings prior to Dr. Boyden's coming into the council chambers was thereupon read by the reporter.)

Chairman Benson: Dr. Boyden, have you any questions?

Dr. Boyden: No.

Chairman Benson: Are there other questions?

Dr. Sears: I would like to ask a question. I would like to get Mr. Foley to read a paragraph from Dr. Spangler's letter to me of last April which was read before this evening.

Mr. Foley: The second paragraph reads as follows—

Chairman Benson: I suggest you read the whole thing.

(The letter from Dr. Paul E. Spangler of April 3, 1937, heretofore set out in this transcript, was thereupon read again by Mr. Foley.)

9179 Dr. Sears: The question I wanted to ask was this: I wanted to know from Dr. Spangler—and I

am speaking now for the Board of Censors, inasmuch as this letter was addressed to me as chairman of the Board of Censors—as to whether he regarded the action taken really discriminatory in view of the fact that the Board of Censors has taken up all of the matters presented to it, all the evidence, as fast as it has been presented in connection with the several organizations and many individuals who have been practicing medicine in contract form in this county. I wanted to ask Dr. Spangler if he knew that action had already been taken against the major share of these various organizations and many other individuals, that some on account of the action taken, at least a considerable portion of them, have resigned from the Society and others have been expelled, and whether Dr. Spangler, inasmuch as he has been present at more than one of the meetings of the Board of Censors, felt that we could proceed against all of these individuals within one short period of time, and whether action taken orderly and systematically could be considered as discriminatory in view of the facts set forth.

Dr. Spangler: The fact I had in mind was, I felt there were so many men in the Society that there wouldn't be much of the Society left if this thing was carried to its logical conclusion, and if you didn't carry it to a logi-
9180 cal conclusion you were doing an injustice to some of the rest of us. That was the thought that I had in mind. I may be wrong in that opinion, but in my mind I am not.

Dr. Sears: You feel that we have been discriminatory?

Dr. Spangler: No. I don't think that at this point, but I say that unless you do carry it to the logical conclusion you will be. Now, perhaps those are your plans, I don't know, but I know that certain things have taken place for which I am on the carpet now, and so far as I know at this time they haven't been brought up on the carpet but maybe in the due course of events you will accomplish that end—I don't know.

Dr. Sears: The question of free choice of physicians is one that permits probably of some latitude of interpretation, but you would hardly feel, would you, that there was any reasonable choice of physicians with one or two men on the panel?

Dr. Spangler: I might say this, Dr. Sears, that all the men we take care of now have had free choice of physicians because we have no contract now which has not been subjected to a referendum of the men themselves; as

a matter of fact this business now is no longer controlled by the employers, it is all controlled by the employees, and the contracts that we hold now are as a result of the choice of the employees themselves. The men have their
9181 union meetings and every contract we have has been subjected to a vote within the last two years, and so the men that we are covering now have had the choice of taking us or turning us down. That was not so in the past, because formerly these contracts were negotiated through the employer, but our contracts now we hold as a result of a vote taken directly by the men themselves, so the men have elected to use the services of the professional men offered by the Pumphrey Company.

Chairman Benson: Any other questions?

(No response)

Chairman Benson: Have you further remarks?

Dr. Spangler. I have nothing further to say. I probably would save embarrassment if I leave unless someone has further questions.

Chairman Benson: Unless there are further questions Dr. Spangler could be excused, and I would entertain a motion to go into executive session.

Dr. Sears: It is so moved.

(The motion was duly seconded.)

Chairman Benson: Thank you, Dr. Spangler, for coming. It has been moved and seconded that we go into executive session. All in favor say "aye", opposed, "no". We are now in executive session.

(The council thereupon went into executive session.)

9182 • • • • • • •

Chairman Benson: This meeting has been called to consider certain cases involving charges against Dr. J. A. Applewhite, Dr. Leland V. Belknap, Dr. O. J. Goffin, and Dr. Samuel H. Wise. The members who have been cited to appear apparently are not present. Are you here to represent them, Mr. Clark?

Mr. Malcolm H. Clark: Yes, I am here.

Chairman Benson: Did you have a statement to make?

Mr. Clark: No, I don't care to make any statement.

Chairman Benson: What are you here for?

Mr. Clark: As their representative. I have written authority from the gentlemen to appear for them. They were invited to be present.

(Mr. Clark thereupon presented a letter to the Chairman as follows:)

Portland, Oregon
July 30, 1937

Mr. M. H. Clark
Portland
Oregon

Dear Sir:

You are hereby appointed and authorized as our attorney, and as the attorney for each of us, to appear before the Council of the Multnomah County Medical Society at the meeting to be held in the Medical-Dental Building, Portland, Oregon on July 30, 1937, and this is authority and direction to said Council to permit you to so appear and represent us, and each of us.

Very truly yours,

(Signed) J. A. Applewhite
(Signed) O. J. Goffin
(Signed) L. V. Belknap
(Signed) S. H. Wise

9183 Chairman Benson: Well, you understand, of course, this is not a law body; it is not a legal body, Mr. Clark, and these members were cited here to present their cases, and there is no one else who can present their case. This is not a court of law.

Mr. Clark: But I submit—

Chairman Benson: If you have any statement you wish to make you are perfectly free to make it.

Mr. Clark: I submit to you gentlemen that I am entitled to be present, perhaps not to speak in their behalf, but at least to be present at the deliberations of the council, they having been invited to be here and I am here as their representative. I haven't seen the charges, that is, I have seen the charges as to one but I haven't had an opportunity to examine the testimony that has been taken. It is possible and probable that if I had such an opportunity I would want to make some remarks concerning it. Now if you wish to hold the matter open until I have had a chance to read over the evidence I would then probably desire to make some comments.

Chairman Benson: As far as any testimony here is concerned or any presentation of evidence or facts which would have a bearing on this case, it is the policy of this

council and of the American Medical Association that the member himself should present those facts, Mr. Clark.

Mr. Clark: Well, I understand that that is the rule,
9184 but the point to which I am now addressing myself is this, that the doctors have not seen the testimony that has been adduced against them, if any, and I have not, and my suggestion was not that I would present evidence, but in response to your suggestion that I having read the testimony might want to make some comments on the testimony you now have, not the introduction of new testimony, and if I have that opportunity I will then be glad to discuss the matter.

Chairman Benson: Hasn't this information been made available? I think we will just ask the executive secretary to cite the occasions on which these members have been summoned to appear before the Board of Censors and whether they have appeared.

Mr. Foley: Well, Mr. President, the Board of Censors has held two meetings at which all these men in question were invited, a preliminary conciliatory meeting at which none of them appeared, a second regular session at which none of them appeared, and in addition to that if they had been present at the regular second hearing they would have had the opportunity of hearing the testimony offered and could have obtained a transcript of it, which has been the custom of the Board of Censors at any time it has been requested.

Dr. Martzloff: Mr. Chairman, might I take this occasion to inquire of Mr. Clark why his clients are unable to appear or to be here tonight?

9185 Chairman Benson: Yes.

Mr. Clark: Well, it is a question. Out of courtesy I want to say that I don't care to answer. They are represented here by counsel. I do want to say this, and to have it understood, that there is nothing personal in anything I say here, that the four men I represent want to have the record show that they specifically and individually deny the charges made against them. I say this as well, that none of these men have been furnished with a copy or transcript of any of the evidence. Now I am unaware as to whether they have asked for it or not—I didn't ask them that question—but I believe as long as the matter is up that it would be fair—you are taking rather serious action here—to give us a copy of the testimony, for which we will be glad to pay, and have this meeting continued to a later date.

Chairman Benson: Mr. Clark, I will have to advise

you of the fact that you are evidently under a misunderstanding about the procedure before the Board of Censors. Before I was president of this Society I was a member of the Board of Censors and am quite conversant with the rules of procedure of that body. It is appointed as a conciliatory body to hear the charges brought against any member, and the member is invited,—not forced but invited—to appear before that body in a conciliatory way. He is given a chance to present his own case. The charges are read to him and he is given a chance to defend
9186 himself and to make his own case. If he denies the charges he has all the opportunity to do so and to enlarge upon his position in any way that he chooses, and not only that, if he feels that in any way he has taken a position which he wishes to retreat from or to change, the promises that he makes before the Board of Censors are taken in good faith and there has been no occasion on which such a statement has not been received in good faith by the Board of Censors and this member given an opportunity to make his conduct in the future in conformity with the rules of this Society and of the American Medical Association.

The Board of Censors is not a penal body at all, it is a conciliatory body, and I wish to reiterate that the member is invited to appear before that body to clear up any misunderstanding or any charges which have been brought, always by others, not by the Board of Censors, against this member. The Board of Censors naturally feels that when a member fails to avail himself of that opportunity to state his position and assert his own innocence or the regularity of his conduct, he is neglecting his own rights and placing himself in an equivocal position. It is not a penal body; it is conciliatory. There is no transcript to furnish unless the member does avail himself of that opportunity to state his position, and when the member neglects that opportunity he is putting himself in the position of having failed to assert whether he is right or wrong,
9187 knowing what the charges have been against him.

I am just trying to make this clear, what the purpose of the Board of Censors is.

Mr. Clark: Well, do I understand, Doctor, that as long as the members did not appear at these various meetings that they are not entitled to a transcript of the evidence against them?

Chairman Benson: Well, they have been furnished a copy of that.

Mr. Clark: They have been furnished a copy of the charges.

Chairman Benson: The charges, yes.

Mr. Clark: But of course the charges do not prove anything of themselves, you understand. Someone says a thing is so; it doesn't make it so. It has to be supported by testimony.

Dr. Brooke: You want a copy of the testimony?

Mr. Clark: The testimony.

Dr. Brooke: Your clients could have had that if they had been present. There were postponed meetings and they ignored that, and to come in at the last minute and ask for a copy seems funny, doesn't it?

Mr. Clark: My question was, are they not now entitled to a transcript of the testimony either taken tonight or at previous meetings?

Chairman Benson: I think not. The Board of Censors or the Grievance Committee can inform Mr. Clark
9188 that.

Dr. Richard B. Adams: We have been advised after considerable discussion on this point that the men under consideration if they take appeal to the next higher authority are entitled to a copy of the transcript of the previous hearing. Only after they have exhausted all indicated means of appeal within the organization does the situation then pass into the hands of the civil courts. These men were given two opportunities to appear at the specified conciliatory meeting as outlined and set out in the constitution and by-laws. They chose for reasons best known to themselves not to appear. They likewise chose not to appear at the hearing of formal charges. They likewise apparently chose not to appear tonight. They may choose to appear at a future meeting, which will be held only in case they duly and formally appeal the matter to the next higher authority, in which case it is my understanding they will be entitled to any form of counsel in an advisory capacity only, not for purpose of presentation of argument. They may avail themselves of counsel as they choose, or clerical help or assistance. It would not seem, inasmuch as they have not chosen to appear in their own behalf this evening, that they are in need of advice during the contemplation of the present body.

Mr. Clark: Well, my suggestion was—pardon me, had you finished?

Dr. Richard B. Adams: Yes.

9189 Mr. Clark: My suggestion was this: the president, Dr. Benson, isnt it?

Chairman Benson: Yes.

Mr. Clark:—very courteously asked me if I had a statement to make. I would have to see the evidence before I could intelligently talk about what is before the Board. I could talk about the charges, but a charge made doesn't mean anything unless it is proven, and not having seen the testimony I couldn't say what supports those charges if anything.

Chairman Benson: You see, this is not a court of law nor a legal body. That is why these members were asked by their own fellow-members, by the constituted authority of their own Society, to appear and answer charges. It isn't a legal body. We are just judging of the qualifications of our own members, which is our prerogative, you will admit, I think.

Mr. Clark: Yes, your articles make some reference to that.

Mr. Coughlin: Mr. President, I think things are going in a kind of circle. Mr. Clark wants to know two things: in the first place whether his clients are entitled to a transcript of testimony. They are certainly entitled to that, and that transcript was taken months ago and was available. They have never made any application for it. This seems to be an after-thought on Mr. Clark's part now to ask for a transcript. They were entitled to a transcript, but they didn't ask for it.

9190 The second thing Mr. Clark wants to know is whether he can participate in this meeting. The council has formulated the policy that in the first place an attorney may appear with his client to advise him on matters of evidence, but our president has also ruled tonight that he may go beyond that, and that Mr. Clark may present any evidence that he has or discuss this case in any manner he cares to. If he has no evidence to present or no further discussion I don't see that there is any reason for him to continue his presence. They have had an opportunity long ago to get the transcript and they never asked for it.

Dr. Sears: May I add this to supplement that statement as Chairman of the Board of Censors? As has been mentioned here several times this is not a court of law, but if there is an analogy drawn we are not familiar with any court of law which would ask an individual or demand that an individual be present and have the individual deliberately ignore the request three times. Mr. Clark, I think,

is familiar with what happens to any individual who doesn't appear in court.

Now this organization and its several committees are medical men who are busy, and every individual of the Society is fully aware of that, and knowing that the members of these committees are as busy if not busier than the other members of the Society, the Board of Censors has gone beyond any reasonable demand. We have
9191 had in this case two preliminary meetings when only one is required, and the individual did not appear. Then a considerable time elapsed, months, in which there was available a transcript of all the evidence that was presented, and the transcript has been available following the last meeting of the Board of Censors in which these individuals were notified as to the action of the Board of Censors, and a request for that transcript was made only tonight.

This is not a manifestation of impatience; it is simply a manifestation, I think, of ordinary rights of a practicing physician who acts on a committee or participates as an officer in the Society. There is a limit to his time and possibly even a limit to his patience, and it wouldn't be possible for me personally to appear here again and again for individuals who are not sufficiently interested to be present when requested in a polite manner to appear before the Board of Censors in a purely conciliatory tone, and which they have chosen to absent themselves from and manifested a disinclination—we are bound to that interpretation—a disinclination to even offer any evidence. I can conceive of no other interpretation than that.

Dr. John C. Adams: I think it is very much out of order for us to discuss this matter with Mr. Clark at all. I think it would be very much in order for Mr. Clark to
9192 be excused. This is not a matter that concerns Mr. Clark in any direct manner at all, nor has he any authorization that we recognize as such to represent his clients in their absence. The constitution very definitely states and this body has decided that counsel may be here for advice, but not permitted to take part in the discussion at all, and I think that practically closes the discussion as far as he is concerned. It is unfortunate, but it is the way it is written.

Dr. Martzloff: Mr. Chairman, I have attended a number of these meetings, first as a chairman of the Grievance Committee and later as a member of the council, and I know from experience and I am sure Mr. Clark realizes that the council has this evening extended to him a

courtesy which has heretofore never been extended to anyone. In other words, as Dr. Adams has said, the only time that counsel have been permitted to appear before the council in a thing like this has been when counsel has appeared with the client, and then only in an advisory capacity, counsel not being permitted any time to make any statement to the council.

Chairman Benson: The Chair rules just as Dr. Martzloff has stated now, Mr. Clark, that allowing counsel to speak here is merely in the way of a courtesy. According to the precedure in this body counsel is admitted here only as counsel or as advisor to the member who is under charges, and he has no status here excepting in the company of his client. These clients have not appeared.

9193 They have had repeated opportunities to appear, and had they done so they could have known what the charges were, what the evidence was, and all of this has been duly presented. They have ignored every opportunity to familiarize themselves with the facts as presented here.

Now I think we can still extend to you the one further courtesy. If you have any further remarks to make before you withdraw we will listen to you.

Mr. Clark: Well, I want to say, we may not agree upon all things but I appreciate the courtesy with which I have been treated personally and especially by Dr. Martzloff for his introduction of me tonight. As I say, it is difficult if not impossible to intelligently discuss evidence unless you know what the evidence is. I could discuss the charges, but they, as I said before, unsupported by evidence mean nothing, so I don't believe that I will take up your time endeavoring to talk about the evidence which I know nothing of. As I understand you now rule—and I am just asking this question to make the record—that I am not entitled to remain here any longer.

Chairman Benson: Well, we would be glad to have you remain with us further if you would like, Mr. Clark, but we are likely to go into executive session and we never allow anyone except our own members and officers to re-

9194 main during executive session.

Mr. Clark: That is, when you are discussing the—

Chairman Benson: When we go into executive session no one would be allowed to stay.

Mr. Clark: Well, as I understand, you are requesting at this time that I withdraw from the meeting?

Chairman Benson: We are giving you the opportunity to withdraw, yes.

Mr. Clark: No, that doesn't quite answer my question, Doctor. My question is: Are you requesting me to withdraw?

Chairman Benson: Requesting you when you are through, yes, because we are going into executive session and you will not be allowed to stay during that.

Mr. Clark: Do you mean by that, in order that we may get the record clear, that you are now going into executive session?

Chairman Benson: Very soon. I will entertain a motion right now.

Mr. Clark: Then am I permitted to remain here until such time as you do go into executive session?

Chairman Benson: Yes.

Dr. Brooke: Mr. Clark, do you want to put in the record that we threw you out or anything like that?

Mr. Clark: You have a right to make certain requests, that is, you have the power to make certain requests,
9195 perhaps, not the right, and I am just asking if you are exercising that power.

Dr. Richard B. Adams: I feel that it has been made clear, according to past and present rulings of this body, that we do not feel that Mr. Clark should participate in the discussion or argument of the case under consideration. It should also, I think, be made clear to Mr. Clark that if the gentlemen under consideration this evening feel aggrieved opportunity is provided them under the constitution of this organization to appeal from a decision of this body in a regular manner. Following the filing of that appeal the transcript is available.

Mr. Clark: Until that time, as I understand you, the transcript will not be avilable. Is that correct?

Mr. Coughlin: No, that is not correct. You have been told several times a transcript has been available and hasn't been requested.

Mr. Clark: I am wondering if you now rule that the time of redemption is past and we have to redeem ourselves by appealing.

Dr. Gambee: Mr. President, I move we go into executive session.

Dr. Brooke: Just a minute. I think this record ought to be made clear that Mr. Clark or any other legal representative of these men against whom charges have been
9196 filed could have been present at any of the meetings hitherto held in consideration of this matter and could have heard all of this evidence that he now desires a transcript of so ardently. We had no objection at all, and

he could have sat throughout the meeting and he could have had a transcript thereafter, and any one of these men under charges could have had, but these meetings have all been held; these men ignored these meetings. Mr. Clark was not present, or any other legal representative of these men, and now after the meetings have been held and a great amount of time was given and we have delayed the meetings time after time in order to make it convenient for them, at the last minute when we meet to consider the recommendation of the Board of Censors, request is made for this transcript and objections entered that legal counsel couldn't adequately represent these men because he is unaware of the testimony against them, which these men had plenty of opportunity to have acquired had they only been present at the meeting. I think you understand that, do you not?

Mr. Clark: I beg you gentlemen's pardon, but I would like to get a specific answer to my question, and that is: Are we or are we not, according to your ruling, now entitled—or hereafter, tomorrow or the next day or a week from now—entitled, regardless of an appeal, to a transcript of this testimony if we desire it and are willing to pay for it?

Dr. Richard B. Adams: To whom do you refer by
9197 "we"?

Mr. Clark: I mean the doctors we represent.

Chairman Benson: I think, Mr. Clark, that you would be entitled to a copy of that transcript for just the actual cost of preparing it.

Mr. Clark: Well, we are perfectly willing to pay that, you understand.

Chairman Benson: The member who comes under this action can apply for a transcript.

Mr. Clark: Just so we understand that. The court reporter then that took the record may feel free to furnish us a copy at cost?

Dr. John C. Adams: It probably should be secured through the Society.

Mr. Coughlin: It should be secured through the Society.

Mr. Clark: But it will be available if we ask for it? Well, then, thank you, gentlemen. Pursuant to your request I will retire.

(Mr. Clark thereupon withdrew from the council chambers.)

(The motion to go into executive session was duly seconded.)

Chairman Benson: You have heard the motion. All in favor say "aye"; opposed "no". The motion is carried.

(Thereupon the council went into executive session and Chairman Benson asked Dr. Richard
9198 B. Adams to present the evidence submitted against Dr. Spangler at the meeting of the Board of Censors on July 21, 1937. Dr. Richard B. Adams then summarized the evidence and submitted the complete transcript and it was received as an exhibit.)

Chairman Benson: We will resume regular session.

Dr. Martzloff: In view of the evidence presented in the transcript presented by Dr. Adams and also additionally in view of the evidence presented this evening when Dr. Spangler appeared before the council, when it was shown that Dr. Spangler in the guise of "Dr. Spangler and Associates" is engaged in active solicitation of business in the State of California, this solicitaion beng done by laymen, in view of this additional fact added to what was presented in the former transcript, I would like to present the following resolution:

Whereas, the Board of Censors after due hearing has recommended that Dr. Paul E. Spangler be expelled from the Multnomah County Medical Society; and

Whereas, the Board has presented this recommendation to the council, and informed Dr. Spangler that a report has been filed with the Council and the Council has given Dr. Spangler due notice of this meeting and an
9199 ample opportunity to be heard, and has examined the evidence, exhibits, charges, answer of Dr. Spangler, recommendation of the Board, and is fully conversant with the entire matter.

Now Therefore, be it resolved by the Council of the Multnomah County Medical Society:—

1. That the recommendation of the Board of Censors be and the same is hereby approved and adopted.

2. That it is the conclusion of the Council that the charges against Dr. Spangler have been sustained.

3. That Dr. Spangler be expelled from the Society, and the Secretary of the Society be directed to notify Dr.

Spangler, the Oregon State Medical Society and the American Medical Association of this action by the Council.

I so move, Mr. Chairman.

(The motion was duly seconded by several members.)

Chairman Benson: Because of the gravity of the action in this matter the Chair will rule that every member should vote and that this be a rising vote and that the executive secretary count the votes. Everyone in favor of the adoption of this resolution will rise. Remain standing, please, until count is made.

(The following members of the council thereupon voted in the affirmative by rising: Drs. Benson, Martzloff, Lewis, Bettman, Brooke, Boyden, Woods, Mount, Gambee, 9200 Buckley, Adams, Sears, and Lucas.)

Chairman Benson: All those opposed will now rise.

(There were no negative votes.)

Chairman Benson: The motion for adoption of this resolution is carried. The resolution goes into effect. Now I will entertain a motion to go back into executive session.

Dr. Sears: I so move.

(The motion was duly seconded.)

Chairman Benson: All in favor say "aye"; opposed "no". We are in executive session.

(The Council thereupon went into executive session, and Chairman Benson asked Dr. Richard B. Adams to present the evidence submitted against Drs. J. A. Applewhite, Leland V. Belknap, O. J. Goffin, and Samuel H. Wise at the meeting of the Board of Censors on July 21, 1937. Dr. Richard B. Adams then summarized the evidence and submitted the complete transcript, and it was received as an exhibit.)

Chairman Benson: We are in regular session again. Gentlemen what action do you wish to take?

Dr. Gambee: Mr. Chairman, I move the adoption of the following resolution:

(Similar resolutions were then adopted with respect to Drs. J. A. Applewhite, O. J. Goffin, Leland V. Belknap, and Samuel H. Wise.)